UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
2008 FEB 11 PM 1:28
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Eber Abdiel RESENDIZ,

Defendant(s)

Magistrate Case No.: '08 MJ 0386

COMPLAINT FOR VIOLATION OF:

Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii)
Transportation of Illegal Aliens

The undersigned complainant, being duly sworn, states:

On or about **February 7, 2008,** within the Southern District of California, defendant **Eber Abdiel RESENDIZ** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Viviana ANDRADE-Adame, Cesar Manuel ANDRADE-Adame,** and **Juan MARTINEZ-Morales** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James E. Bailey
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **11th** DAY OF **FEBRUARY 2008**

Anthony J. Battaglia
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Eber Abdiel RESENDIZ

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

Furthermore, the complainant states that **Viviana ANDRADE-Adame**, **Cesar Manuel ANDRADE-Adame**, and **Juan MARTINEZ-Morales** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On February 7, 2008, Border Patrol Agent R. Rojas was assigned to the State Route 94 Border Patrol Checkpoint. All warning lights and signs were clearly visible and operational. At approximately 3:15 PM, a silver colored Mercedes-Benz ML-430 four-door sports utility vehicle approached the primary inspection position of the checkpoint. Agent Rojas identified himself as a Border Patrol Agent and questioned the driver, later identified as the defendant **Eber Abdiel RESENDIZ**, as to his citizenship. Before the defendant was able to respond to the questioning, Agent Rojas moved slightly toward the rear of the vehicle and observed through the side rear window, a person attempting to hide by lying down in the rear-most portion of the vehicle's interior area. Suspecting that the subject lying down in the back of the vehicle may be a smuggled illegal alien, Agent Rojas directed the defendant to turn off the ignition and to step out of the vehicle. Agent Rojas asked the defendant if he would open up the rear compartment of the vehicle. The defendant agreed with the request and proceeded to open the rear gate of the vehicle. Once the defendant opened the gate, Agent Rojas observed four individuals in the rear of the vehicle.

Senior Patrol Agent R. Sotelo, who working the secondary inspection position of the checkpoint, questioned all four individuals lying down in the rear of the vehicle as to their citizenship. All four individuals admitted to being undocumented aliens present in the United States without permission or in possession the proper documentation to be in or remain in the United States legally. The defendant and four undocumented aliens were arrested and escorted into the State Route 94 Checkpoint for processing.

MATERIAL WITNESSES STATEMENTS:

Material witnesses **Viviana ANDRADE-Adame**, **Cedar Manuel ANDRADE-Adame** and **Juan MARTINEZ-Morales** agree in summary that they are citizens and nationals of Mexico illegally present in the United States. They admit to entering the United States illegally. The material witnesses stated that they were to pay between 1,200 to 2,000 U.S. dollars to be smuggled into the United States. Material witnesses Juan MORALES- Martinez was shown a photographic line up and was able to identify the defendant Eber Abdiel RESENDIZ as the driver of the vehicle.

CONTINUATION OF COMPLAINT:
Eber Abdiel RESENDIZ

Executed on February 9, 2008 at 10:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **three** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **02/07/2008,** in violation of Title **8**, United States Code, Section **1324**.

Anthony J. Battaglia
United States Magistrate Judge

2/9/08 1030AM
Date/Time